

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : TO BE ASSIGNED, WHICH IS A NATIONAL STAGE APPLICATION OF
PCT/US2004/043288
Applicants : DARLEY, ET AL.
Filed : JULY 19, 2006
Title : TRANSFORMABLE SPEECH PROCESSOR FOR A HEARING PROSTHESIS

Art Unit : TO BE ASSIGNED
Examiner : TO BE ASSIGNED

Atty Docket No. : COCH-0125-US1

Attention: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**EVIDENCE REGARDING PETITION FOR REVIVAL OF AN INTERNATIONAL
APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED
UNITNATIONALLY UNDER 37 C.F.R. §1.137(B)**

Dear Sir:

A typographical error in the PCT Request filed on December 27, 2004 for International Application PCT/US2004/043288 identified the Priority Date of Australian Provisional Application No. AU2003907138 as December 24, 2004. Australian Provisional Application No. AU2003907138 was filed on December 24, 2003 and was incorrectly documented by the Receiving Office and the International Bureau. The priority document was subsequently received by the International Bureau on May 30, 2005 (*See*, PCT/IB/304, enclosed herewith.)

Neither the Receiving Office nor the International Bureau found that the “priority claim [did] not comply with the requirements of Rule 4.10 or that any indication in a priority claim [was] not the same as the corresponding indication appearing in the priority document” (*See*, PCT Rule 26bis.2(a)). Because of this oversight, no Invitation to Correct the Priority Claim was forwarded to Applicants.

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Accordingly, Applicants respectfully request that the Priority date of the Australian Application (AU2003907138) of December 24, 2003 be afforded to the captioned National Stage Application. Applicants claim of priority "shall not be considered not to have been made only because the indication of the number of the earlier application referred to in Rule 4.10(a)(ii) is missing or because an indication in the priority claim is not the same as the corresponding indication appearing in the priority document." (*See*, PCT Rule 26bis(b)).

Since, the fees and documents required by 35 U.S. C. 371(c) were not filed prior the expiration of the time set in 37 C.F.R. 14.495(b) or (c) or June 24, 2006, Applicants are filing this Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b) concurrently, herewith.

Please direct any questions to the undersigned.

Respectfully submitted,



Michael G. Verga, Esq.
Reg. No. 39,410

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July 19, 2006

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT
DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number
(Optional)
COCH-0125-US1

First Named Inventor: Ian Darley

International (PCT) Application No.: PCT/US2004/043288

U.S. Application No.:
(if known)

Filed: December 27, 2004

Title: Transformable Speech Processor for a Hearing Prosthesis

Attention: PCT Legal Staff
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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.495(b) or (c) as applicable. The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee
- (2) Proper reply
- (3) Terminal disclaimer with disclaimer fee which is required for all international applications having an international filing date before June 8, 1995; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity - fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status.
See 37 CFR 1.27.☒ Other than small entity - fee \$ 1,500.00 (37 CFR 1.17(m))

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s)) in the form of _____ (identify type of reply):

☐ has been filed previously on _____.☒ is enclosed herewith.

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This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

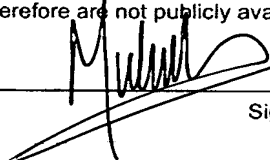
☒ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

 _____ Signature	July 19, 2006 _____ Date
Michael G. Verga _____ Typed or Printed Name	39,410 _____ Registration Number, if applicable
10363-A Democracy Lane _____ Address	703-591-2664 x 2005 _____ Telephone Number
Fairfax, VA 22030 _____ Address	

Enclosures: ☐ Response
☐ Fee Payment
☐ Terminal Disclaimer
☒ Other (please identify):

Explanation